

REMARKS

This communication is in response to Final Office Action mailed on May 26, 2010 rejecting claims 1, 4-5, 9-10, 13-14, and 16.

This response is filed with a Request for Continued Examination to amend claim 1 and newly present claim 21.

Claims 1, 4-5, 9-10, 13-14, 16, and 21 remain pending in the application for consideration.

Claim rejections under 35 U.S.C. § 103

Independent claims 1 and 13 and dependent claim 14 were rejected under 35 U.S.C. § 103 as unpatentable over Leise, US patent number 5,401,264 ("Leise") in view of EP 1 254 647.

The Examiner concedes at page 3 of the final office action mailed on May 26, 2010 that Leise does not provide a second portion that is unattached to figure wall of the bag. The Examiner takes the position that Leise discloses that the attachment of the wafer to the edge of the rear wall may include a resealable coupling as set forth at column 3, lines 7-14, and states (quoting): "In this case, the second portion may be selectively secured, permanently secured, and/or unattached to the rear wall."

Applicant's representative takes the position, respectfully, that the Examiner's position, quoted above, includes clear error.

In fact, Leise discloses at column 3, lines 1-7 that the illustrations of Figures 1-4 provide "what is commonly known as a one-piece appliance with the **annular faceplate 16 permanently secured to the pouch** about stoma opening 15 by means of heat seal 18." Emphasis added. However, Leise also discloses at column 3, lines 7-14 that the appliance may be provided as a two-piece appliance with the faceplate 16 and a pouch 10 provided as "**separable** components joined to each other by adhesive or mechanical coupling means." Emphasis added.

Amended independent claim 1 requires an adhesive wafer having a first side having a skin securing adhesive layer and a second side positioned to abut the rear wall of the bag, the second side including a first portion that is permanently secured to the rear wall of the bag and a second portion that is unattached to the rear wall of the bag with an adhesive layer positioned to selectively secure the second portion of the wafer to the rear wall of the bag.

Amended independent claim 13 requires a bag edge having a first edge part permanently secured to a first part of said attachment zone and a second remaining edge part attachable to said attachment zone.

The disclosure of Leise cited by the Examiner includes express language that provides for two possibilities: a faceplate 16 permanently secured to the pouch, or a two-piece appliance with the faceplate 16 and a pouch 10 provided as separable components.

Possibility 1

Leise discloses at column 3, lines 1-7 that the illustrations of Figures 1-4 provide "what is commonly known as a one-piece appliance with the **annular faceplate 16 permanently secured to the pouch** about stoma opening 15 by means of heat seal 18."

If Leise is viewed as disclosing a one-piece appliance, then Leise fails to teach or suggest a wafer having a second side including a first portion that is permanently secured to a rear wall of the bag and **a second portion that is unattached the rear wall the bag**, as required by amended independent claim 1. Likewise, Leise fails to teach or suggest a bag edge having a first edge part permanently secured to a first zone of an attachment zone and **a second remaining edge part attachable to the attachment zone**, as required by amended independent claim 13. The express language of Leise requires his one-piece appliance to have the annular faceplate 16 permanently secured to the pouch, such that Leise fails to teach or suggest or otherwise render obvious an adhesive wafer have any portion that is unattached.

Possibility 2

Leise discloses at column 3, lines 7-14 that his two-piece appliance includes the faceplate 16 and the pouch 10 provided as "**separable** components joined to each other by adhesive or mechanical coupling means."

If Leise is viewed as disclosing a two-piece appliance, then the express language of Leise requires his two-piece appliance to have separable components, which precludes having a wafer with one part permanently secured to the rear wall of the bag, as required by amended independent claims 1 and 13.

No possible combination of Leise with the cited references teaches, suggests, or renders obvious the pending claim language that requires a first portion that is permanently secured to the rear wall of the bag and a second portion that is unattached to the rear wall of the bag (amended independent claim 1) or a first edge part permanently secured to a first part of an attachment zone and a second remaining edge part attachable to the attachment zone (amended independent claim 13).

Based on the above, independent claims 1 and 13 are not rendered obvious over Leise, alone or in combination with EP 1 254 647 (cited by the Examiner as providing a release liner).

Thus, it is respectfully requested that the rejections to claims 1 and 13-14 under 35 U.S.C. § 103 as unpatentable over Leise be withdrawn.

Claims 4-5, 9-10, and 16 were rejected under 35 U.S.C. § 103 as unpatentable over Leise in view of Thomas, U.S. Pat. No 4,865,594 ("Thomas"). Thomas is cited by the Examiner as providing a stiffening element. Applicant's representative does not acquiesce to the implied assertion that Thomas qualifies as prior art under section 103, but notes that even if Thomas is so applied, that Thomas fails to cure the deficiencies of Leise in establishing a *prima facie* case of obviousness in the rejections of claims 1 and 13, as noted above. Thus, it is respectfully requested that the rejections to claims 4-5, 9-10, and 16 under 35 U.S.C. § 103 as unpatentable over Leise in view of Thomas be withdrawn on the basis that independent claims 1 and 13 are nonobvious over the cited references. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

CONCLUSION

Based on the above, it is believed that pending claims 1, 4-5, 9-10, 13-14, 16, and 21 recite patentable subject matter over the cited references and are in condition for allowance. A Notice of Allowance for claims 1, 4-5, 9-10, 13-14, 16, and 21 is respectfully requested.

Applicants : Ciok
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The Examiner is invited to telephone the undersigned if issues remain outstanding.

The office is authorized to charge any fees actually due and credit any overpayment to deposit account 50-4439.

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Respectfully submitted,
Ciok

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